REMARKS

In reply to the USPTO communication dated January 22, 2004, Applicants are again filing the Preliminary Reply Under 37 C.F.R. § 1.111, filed September 16, 2003, except that the status of the claims is additionally presented in the present Reply. The Reply herein is in response to the Final Office Action dated December 17, 2003, and the Advisory Action dated June 17, 2003, wherein the following remarks and Rule 132 Declaration are respectfully submitted in connection with the above-identified application. A Request for Continued Examination Under 37 C.F.R. § 1.114 was filed with the previous Reply on September 16, 2003.

Applicants submit that the presentation of the status of the pending claims was not necessary in the first place, since none of the pending claims were ever amended, added or canceled (the status thereof never changed) in the Reply of September 16, 2003, nor in the Reply After Final Under 37 C.F.R. § 1.116 (filed May 19, 2003). The remaining parts of this Reply remain essentially unchanged.

Claims 35-61 are pending in the present application. In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

Status of the Claims

In response to Applicants' "Reply After Final Under 37 C.F.R. § 1.116," filed May 19, 2003, the Advisory Action of June 17, 2003, indicates that claims 42, 43, 48-57 and 59 have allowable subject matter and claims 35-41 are rejected. Applicants respectfully traverse the rejection of claims 35-41.

Evidence of Patentability

The Advisory Action states that the Rule 132 Declaration as submitted was "objected to for containing handwritten insertions in the text without signature and date of correction" (see Continuation of 5.). Applicants herein submit a revised Rule 132 Declaration by co-inventor Puranam U. Sarma. With this revised Declaration, Applicants respectfully request reconsideration and submit that this is more evidence of patentability for the present invention.

As can be seen from this Declaration one skilled in this art would readily understand that the present specification sets out the claimed methods for diagnosis of aspergillosis. Even Tables 2 and 3 show that the levels of IgG and IgE serve as an indicator of aspergillosis. A skilled person would be aware how to interpret the readings of ELISA and would have no difficulty in performing the invention of the present application as described by the present specification.

There is also no undue experimentation as once the assay is performed (see Examples 2 and 3 of the specification), the results can be easily read by a spectrophotometric plate reader and no further assays are required to determine whether a person is suffering from aspergillosis or not. Applicants further submit that the claims of the present application also require a reading of the absorbance values. Therefore, the present specification provides sufficient enablement for one of skill in the art to make and use the present invention. Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

Claims 35-41

The Advisory Action states that the claims use "comprising" regarding the identity of the peptide and there is a lack of limitations concerning what epitope must the antibodies bind. Applicants respectfully traverse.

Applicants respectfully request reconsideration of claim 35, and any dependent claim thereof. Claim 35 already defines that the peptide has the amino acid sequence of one of SEQ. ID. NOS.: 1-6. Further, considering all the features already cited (*i.e.*, quantitating an amount of peptide-IgG/IgE complexes), and in view of all information contained in the present specification (*i.e.*, teaching the appropriate starting material; the IgG and IgE levels in Table 2), working Examples (*i.e.*,

Example 2 demonstrating peptides reacting with sera of aspergillosis patients), state of the art (*i.e.*, allergens and antigens of *Aspergillus fumigatus* have been identified by previous scientists), and the Rule 132 Declaration (discussed above), one of skill in the art would readily understand that the present inventors had possession of their invention at the time of filing of the present application. Also in view of all of the mentioned information, one of skill in the art would know how to make and use the present invention without undue experimentation.

Accordingly, based on the above remarks and those remarks in the previous reply of May 19, 2003, Applicants respectfully request the Examiner to reconsider and to withdraw all rejections and allow the currently pending claims.

Conclusion

A full and complete response has been made to all issues as cited in the Final Office Action. Applicants have taken substantial steps in efforts to advance prosecution of the present application. Thus, Applicants respectfully request a timely Notice of Allowance issue for the present case.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eugene T. Perez (Reg. No. 48,501) at the telephone number of the

undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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2761-0147P

Attachment:
Declaration Under 37 C.F.R. § 1.132